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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Harry A. Glorikian

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EXAMINER

BHATIA, AJAY M

ART UNIT

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2145

MAIL DATE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/006,346	Applicant(s) GLORIKIAN, HARRY A.	
	Examiner AJAY BHATIA	Art Unit 2145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/7/2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/8/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

Applicant's arguments filed 7/8/2008 have been fully considered but they are not persuasive. Applicant argues that the preset prior art, Hollenberg, fails to teach the limitation "a determination that the mobile computing device has remained near an item corresponding to the position-related information for a specified duration of time." Examiner disagrees, the prior art, discuss a banner that appears when the user is in proximate, providing a short term offer for merchandise and the duration of time is inherent in the prior art's modes of pedestrian mode and vehicle mode and that ads appear in pedestrian mode and not vehicle mode.

Applicant also argues different information is provided based upon whether the user is stationary or moving, examiner has interpreted this limitation in light of the specification and the cited portions of the prior art provide the same level of determination. Therefore applicant's argument is not persuasive.

Applicant goes on to argue in claim 50 that applicant has claimed a server, examiner notes that Hollenberg device provides bi-directional data in Col. 13 line 7, in discussing marking data taken from the device, this is a service hence making the device a server.

Therefore the prior art anticipates the presently claimed invention, so the present rejection is maintained.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 7/8/2008 was filed after the mailing date of the Non-Final on 1/8/2008. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 26-50 are rejected under 35 U.S.C. 102(e) as being anticipated by Hollenberg (U.S. Patent 6,091,956).

For claim 26, Hollenberg teaches, a system for selecting and delivering information relating to exhibits in a premise, comprising:

a server computing device having a communication component communicably coupled to a data communications network configured to provide data communications between the server computing device and a mobile computing device configured to receive and report information from the server computing device wherein

the server computing device is configured to (Hollenberg, Col. 8 lines 32-60, URL, Col. 8 lines 6-25, traffic congestion)

(a) store information relating to exhibits in the premise, (Hollenberg, Col. 8 lines 6-25, data, Col. 13 lines 7-45, sales, figures 2, 4, 6)

(b) periodically determine a position of a mobile computing device within boundaries of the premise, (Hollenberg, Col. 8 lines 6-25, in path, Col. 13 lines 7-45, within selectable distance, figures 2, 4, 6)

(c) select information specific to an exhibit in the premise if the mobile computing device remains near the exhibit for a specified duration of time, (Hollenberg, Col. 8 lines 6-25, location, speed, travel-direction, avoid, accident, Col. 13 lines 1-45, duration of view, short-term merchandise, Col. 16 lines 9-47, display awaiting user, 1 hr special, figures 2,4,6)

(d) send the selected information specific to the exhibit to the mobile computing device, and (Hollenberg, Col. 8 lines 6-25, traffic congestion, Col. 13 lines 6-45, banner, figures 2, 4, 6)

(e) in response to movement of the mobile computing device, select and send general information relating to one or more other exhibits that are located in the general direction of movement of the mobile computing device. (Hollenberg, Col. 8 lines 6-25, in path, Col. 13 lines 6-45, floor information, plan, figures 2, 4, 6)

For claim 27, Hollenberg teaches, the system of claim 26 wherein the server computing device is configured to use the periodically-determined positions to generate

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direction and rate of movement of the mobile computing device within the boundaries of the premise, and to use both (1) at least one of the direction and rate of movement of the mobile computing device and (Hollenberg, Col. 13 lines 1-25, speed, frequency, duration of view, direction,)

(2) the position of the mobile computing device to select information. (Hollenberg, Col. 13 lines 1-45, distance, banner)

For claim 28, Hollenberg teaches, the system of claim 27 wherein the premise has an indoor portion and the server is configured to periodically determines the position of the mobile computing device within the indoor portion. (Hollenberg, Col. 12 lines 43-62, RF)

For claim 29, Hollenberg teaches, the system of claim 27 wherein the premise has an indoor portion and the server is configured to periodically determines the position of the mobile computing device within the indoor portion without using a GPS signal at the mobile computing device. (Hollenberg, Col. 12 lines 43-62, GPS)

For claim 30, Hollenberg teaches, the system of claim 27 wherein the premise has an indoor portion and the server is configured to periodically determines the position of the mobile computing device within the indoor portion using a radiofrequency triangulation system. (Hollenberg, Col. 12 lines 43-62, RF)

For claim 31, Hollenberg teaches, a mobile computing device, comprising:

a position-determining component configured to periodically determine a position of the mobile computing device relative to time; (Hollenberg, Col. 12 lines 43-62, GPS, RF)

and a communication component configured to provide the position of the mobile computing device to a server computing device storing position-related information and to receive from the server computing device a portion of the position-related information selected based on of the position of the mobile computing device, a rate of change of the position, a direction of change of the position. (Hollenberg, Col. 13 lines 1-45, speed, direction, Col. 8 lines 6-25, location, speed, travel-direction, avoid, accident) , and a determination that the mobile computing device has remained near an item corresponding to the position-related information for a specified duration of time. (Hollenberg, Col. 8 lines 6-25, location, speed, travel-direction, avoid, accident, Col. 13 lines 1-45, duration of view, short-term merchandise, Col. 16 lines 9-47, display awaiting user, 1 hr special, figures 2,4,6)

For claim 32, Hollenberg teaches, the mobile computing device of claim 31 wherein the position- determining component includes a GPS receiver configured to indicate a position of the GPS receiver on the Earth's surface, and the communication component is a data communication component that is configured to communicate via a cellular telephone network with the server computing device. (Hollenberg, Col. 12 lines 43-62, GPS, Col. 15 lines 1-25, telecomm Col. 5 lines 29-45, GSM)

For claim 33, Hollenberg teaches, the mobile computing device of claim 31 wherein the position- determining component is configured to employ radiofrequency-based triangulation to determine the position of the mobile computing device with respect to a specified position in a physical facility. (Hollenberg, Col. 12 lines 43-62, RF)

For claim 34, Hollenberg teaches, the mobile computing device of claim 31 further comprising an information reporting component is configured to report the received position-related information. (Hollenberg, Col. 13 lines 6-45, display, speaker)

For claim 35, Hollenberg teaches, the mobile computing device of claim 31 further comprising an information reporting component is configured to report the received position-related information audibly. (Hollenberg, Col. 13 lines 6-45, speaker)

For claim 36, Hollenberg teaches, the mobile computing device of claim 31 further comprising an information reporting component is configured to report the received position-related information visually. (Hollenberg, Col. 13 lines 6-45, display)

For claim 37, Hollenberg teaches, the mobile computing device of claim 31 further comprising an information reporting component is configured to report the received position-related information audiovisually. (Hollenberg, Col. 13 lines 6-45, display, speaker, banner)

For claim 38, Hollenberg teaches, a method performed by a computing device for delivering position- related information to a mobile computing device, comprising:

periodically receiving position information from the mobile computing device indicating a position of the mobile computing device; (Hollenberg, Col. 13 lines 6-45, floor)

retrieving position-related information based on at least two of a position, a rate of change of position, and a direction of change of position of the mobile computing device; (Hollenberg, Col. 13 lines 6-45, move in direction, floor, speed)

, and a determination that the mobile computing device has remained near an time corresponding to the position-related information for a specified duration of time; and (Hollenberg, Col. 8 lines 6-25, location, speed, travel–direction, avoid, accident, Col. 13 lines 1-45, duration of view, short-term merchandise, Col. 16 lines 9-47, display awaiting user, 1 hr special, figures 2,4,6)

sending the retrieved position-related information to the mobile computing device. (Hollenberg, Col. 13 lines 6-45, banner)

For claim 39, Hollenberg teaches, the method of claim 38 wherein if the received position information indicates that the mobile computing device is near the position of an object for a period of time, selecting position-related information based on an identity of the object and the length of the period of time. (Hollenberg, Col. 8 lines 6-25, location,

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speed, travel–direction, avoid, accident, Col. 13 lines 1-45, duration of view, short-term merchandise, Col. 16 lines 9-47, display awaiting user, 1 hr special, figures 2,4,6)

For claim 40, Hollenberg teaches, the method of claim 38 further comprising selecting position-related information for sending to the mobile computing device based on an interest previously indicated by a user of the mobile computing device.

(Hollenberg, Col. 16 lines 9-47, 1hr special, Col. 18 lines 1-17, visitor guide, figure 6)

For claim 41, Hollenberg teaches, the method of claim 38 further comprising selecting position-related information for sending to the mobile computing device based on dynamic data derived from the indicated position of the mobile computing device over time. (Hollenberg, Col. 16-9-47, 1 hr special)

For claim 42, Hollenberg teaches, a computer-readable storage medium storing computer-executable instructions that, when executed, cause a server computing device to perform a method for selecting and delivering information, the method comprising:

periodically determining a position of a mobile computing device; (Hollenberg, Col. 12 lines 43-62, GPS)

selecting, from an information repository, information according to position and direction of movement of the mobile computing device; (Hollenberg, Col. 8 lines 6-25, location, speed, travel–direction, avoid, accident, Col. 13 lines 1-45, duration of view,

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short-term merchandise, Col. 16 lines 9-47, display awaiting user, 1 hr special, figures 2,4,6)

and delivering the selected information to the mobile computing device via a data communications network wherein different information is selected and delivered to the mobile computing device based on whether the mobile computing device is determined to be stationary or moving. (Hollenberg, Col. 8 lines 6-25, location, speed, travel-direction, avoid, accident, Col. 13 lines 1-45, duration of view, short-term merchandise, Col. 16 lines 9-47, display awaiting user, 1 hr special, figures 2,4,6)

For claim 43, Hollenberg teaches, the computer-readable storage medium of claim 42 wherein the selecting further comprises selecting information based on a previously indicated category of interest of a user of the mobile computing device. (Hollenberg, Col. 16 lines 9-47, 1hr special)

For claim 44, Hollenberg teaches, the computer-readable storage medium of claim 42 wherein the selecting further comprises selecting information relevant to a specified time. (Hollenberg, Col. 16 lines 9-47, 1hr special)

For claim 45, Hollenberg teaches, the computer-readable storage medium of claim 42 wherein the selecting is based on a rate of change in the position of the mobile computing device. (Hollenberg, Col. 13 lines 1-45, speed, direction, Col. 8 lines 6-25, location, speed, travel-direction, avoid, accident)

For claim 46, Hollenberg teaches, the computer-readable storage medium of claim 42 wherein the selecting is based on a rate of change in the position of the mobile computing device, the method further comprising, if the rate of change is determined to be at a walking rate, delivering granular information pertaining to locations within a walking distance. (Hollenberg, Col. 14 lines 38-57, pedestrian)

For claim 47, Hollenberg teaches, the computer-readable storage medium of claim 42 wherein the selecting is based on a rate of change in the position of the mobile computing device and wherein if the rate of change is determined to be at a vehicular movement rate, delivering general information pertaining to locations within a driving distance. (Hollenberg, Col. 14 lines 38-57, vehicle)

For claim 48, Hollenberg teaches, the computer-readable storage medium of claim 42 wherein the determining the position of the mobile computing device is based on a GPS signal. (Hollenberg, Col. 12 lines 43-62, GPS)

For claim 49, Hollenberg teaches, the computer-readable storage medium of claim 42 wherein the determining the position of the mobile computing device is based on radiofrequency triangulation when the mobile computing device is located within an enclosed structure. (Hollenberg, Col. 12 lines 43-62, RF)

For claim 50, Hollenberg teaches, a method performed by a server computing device for selecting and delivering information, comprising:

at the server computing device, (Hollenberg, Col. 8 lines 32-60, URL, Col. 8 lines 6-25, traffic congestion)

periodically determining a position of a mobile computing device; (Hollenberg, Col. 12 lines 43-62, GPS)

using the periodic determinations of the position of the mobile computing device to determine a direction of movement of the mobile computing device; (Hollenberg, Col. 13 lines 1-47, speed, duration, direction, path)

selecting, from an information repository, information based on the position and direction of movement of the mobile computing device; (Hollenberg, Col. 6 lines 31-49, hotel, Col. 13 lines 9-47, proximate)

determining whether the mobile computing device is moving toward an entity; (Hollenberg, Col. 6 lines 31-49, approach)

and if the mobile computing device is moving toward the entity, notifying the entity that the mobile computing device is moving toward the entity. (Hollenberg, Col. 6 lines 31-49, approach hotel)

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached Notice of references cited (if appropriate).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AJAY BHATIA whose telephone number is (571)272-3906. Also any interview requests should be faxed directly to the examiner at (571)-273-3906. The examiner can normally be reached on M, T, H, F 9:00-3:30, Also please fax interview requests to 571-273-3906.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew Caldwell/
Supervisory Patent Examiner, Art Unit 2142